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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

★ OCT 12 2021 ★

Chiquita Fresh N.A., et al
v.

LONG ISLAND OFFICE

Long Island Banana Corp., et al

Civil case 14-982-GRB-AKT

OBJECTIONS TO THE COURT's SEPTEMBER 20, 2021 ORDER

Comes Now defendant, Thomas Hoey, acting pro se, Hereby
Objects to this Court's September 20, 2021 Order for the following
reasons:


1) Federal Rule of Civil Procedure gives this Court the authority
to GRANT~~ss~~ plaintiff's request for dismissal over the objection of
defendant only if that request occurred BEFORE defendant files a
counterclaim. Fed. R. C. P. 41(a)(2) dictates:

"If a defendant has pleaded a counterclaim before being served
with the plaintiff's motion to dismiss, the action may be dismissed
over the defendant's objection only if the counterclaim can remain
pending for independent adjudication." (See Federal Rule of Civil
Procedure 41(a)(2)). Defendant filed his Counterclaim BEFORE plaintiff's
motion for dismissal. (See Counterclaim DE ~~##~~334, docket item 334,
see Plaintiff's Motion to Dismiss Docket item 357.)

2) Defendant respectfully Objects to this Court's finding that,
"any appeal from this ORDER would not be taken in good faith",
is in error, and this Court does not have the authroity to deem
defendant's appeal in bad faith.

It is for the forgoing reasons I move thi~~ss~~sCourt to reverse it's
September 20, 2021 Order and Grant independent adjudication of
defendant's counterclaim.

Respectfully Submitted, October 5, 2021


Thomas Hoey, pro se, individually, and as Owner of all companies
Lewisburg Prison Camp
PO Bpx 2000
Lewisburg, PA 17837

CERTIFICATE OF SERVICE

I, Thomas Hoey, hereby certify I mailed a true and correct copy
of my Objections in the Forgoing to: McCarron & *Diess, 576 Broadhollow
Rd., Suite 105, Melville, NY 11747, today October 5, 2021 with First
Class Stamps.

x


Thomas Hoey

Inmate Name:

Register Number:

Federal Prison Camp

P.O. Box 2000

Lewisburg, PA 17837

HARRISBURG PA 171

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LONG ISLAND OFFICE

Clerk of U.S. District Court
E.D.N.Y.

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